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Attorneys for THE REALREAL, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT CALIFORNIA
SAN FRANCISCO DIVISION

ZEE APPAREL INC. d/b/a SHOP UNDER,
a corporation incorporated under the laws of
the Province of Quebec, Canada

Plaintiff/Counterdefendant,

vs.

THE REALREAL, INC.,
a Delaware corporation,

Defendant/Counterclaimant.

Case No. 3:16-cv-00755-HSG

**DECLARATION OF GRAHAM
WETZBARGER IN SUPPORT OF THE
REALREAL, INC.'S MOTION FOR
SUMMARY JUDGMENT**

1 I, Graham Wetzberger, declare under penalty of perjury under the laws of the United States
2 of America that the following is true and correct:

3 1. I joined The RealReal in January 2013 as Senior Director of Authentication and
4 Brand Compliance and have held that position ever since. I am responsible for overseeing the
5 authentication process of goods consigned through The RealReal's fashion department, which
6 include: ready to wear, handbags, leather goods, small leather goods, accessories, shoes, and other
7 fashion articles. To stay abreast of current counterfeiting trends in the marketplace, I often
8 collaborate with rights holders and other authentication authorities such as the International
9 AntiCounterfeiting Coalition. Some examples of my daily responsibilities at The RealReal include
10 training employees in The RealReal's authentication department, coordinating and supervising their
11 work, and independently evaluating luxury items for authenticity. I also train employees in The
12 RealReal's other departments such as receiving, copyrighting, and photography to conduct less
13 rigorous authenticity evaluations than those performed by the authentication department.

14 2. Before joining The RealReal, I worked at Bag Borrow or Steal, a luxury goods rental
15 service, where my last title was Head of Authentication and Appraisals. Prior to that I held another
16 position at Bag Borrow or Steal where I was responsible for authenticating luxury goods, and prior
17 to to that I held other positions where I became familiar with the pricing, style names, and product
18 names of luxury goods.

19 3. My relevant education includes classes at The Art Institute; courses at the Pratt
20 Institute in Brooklyn where I received a BFA in fashion design with a minor in art history and
21 graduated on the Dean's list as a presidential merit scholar; and fashion law courses at Fordham Law
22 School. I also received an accreditation through the Gemological Institute of America related to fine
23 jewelry. There is no similarly reputable accreditation that relates to luxury fashion articles because
24 this is an emerging field. I have given numerous interviews and contributed to written articles on
25 authentication of luxury fashion goods.

26 4. For over a decade I have inspected hundreds of thousands of luxury items and learned
27 about how they are constructed, the materials they are constructed from, how they should function,
28 and how their components and signature brand markings should appear. Through my experience

1 and training I have gained an encyclopedic knowledge of these and other identifying characteristics
2 of luxury fashion goods.

3 5. On or about December 1, 2016, I inspected but was unable to confirm the authenticity
4 of four Chanel Boy handbags consigned by Zee Apparel. I therefore informed Carine Karam that I
5 would feel more comfortable accepting the items if Zee Apparel could provide documentation
6 showing where they were obtained, and that The RealReal would not accept the Chanel items
7 without further evidence of their authenticity.

8 6. After inspecting the Chanel items, I requested that other goods that had been
9 consigned by Zee Apparel be sent to me so that I could personally inspect them. During my
10 inspection of these other goods on or about December 7, 2015, I saw several inconsistencies that
11 made me believe that the goods were counterfeit.

12 7. Because Zee Apparel had recently attempted to consign a large number of items, and
13 because of the high level of sophistication of the counterfeits, I suspected that Zee Apparel and Mr.
14 Erez were intentionally trafficking counterfeit goods. I therefore informed others at The RealReal
15 about my findings and requested to inspect a larger sample of Zee Apparel's goods. I also reached
16 out to my contacts at the International AntiCounterfeiting Coalition to gather more information that
17 could assist me in determining whether the goods were authentic.

18 8. On or about December 8, 2015, after the International AntiCounterfeiting Coalition
19 provided me the contact information for the appropriate individuals at Louis Vuitton, I caused
20 certain goods consigned by Zee Apparel, including a Celine Tie Tote, to be shipped to Louis Vuitton
21 to be evaluated for authenticity. Those goods, including the Celine Tie Tote, were later returned to
22 The RealReal. On September 19, 2016, I caused the following goods consigned by Zee Apparel to
23 be shipped to John Maltbie at Louis Vuitton (a) the same Celine Tie Tote that Mr. Maltbie originally
24 inspected; (b) four near-identical Celine Tie Totes; and (c) twenty Louis Vuitton scarves.

25 9. On or about December 15, 2015, I became aware of internet news articles stating that
26 Sean Erez was a "ruthless drug kingpin" who "built an empire in which more than 750,000 pills
27 were smuggled in[to the United States] from illegal factories in Holland by Orthodox, plain-dressing
28 Jews." The news stories stated that, although he was sentenced for 15 years in U.S. prison, Mr. Erez

1 was paroled in Canada where he was again charged with trafficking cocaine.

2 10. Since December 2015, I have personally inspected all of the 100 items listed in The
3 RealReal's Second Supplemental Response to Interrogatory No. 2 and determined that every one of
4 those items is counterfeit. I also personally inspected all of the items listed in The RealReal's First
5 Supplemental Response to Interrogatory No. 3 and was not able to definitively determine that they
6 are counterfeit. My understanding is that the items listed in The RealReal's First Supplemental
7 Response to Interrogatory No. 3 were therefore returned to Zee Apparel.

8 11. My conclusions about the authenticity of the foregoing items follow a pattern: for
9 each group of items that are of the same model, I either determined that every item in the group was
10 counterfeit, or was unable to determine that any item in the group was counterfeit. For example, I
11 determined that all of the Louis Vuitton monogrammed scarves were counterfeit, and I was unable to
12 determine that any of the Fendi scarf sets were counterfeit.

13 12. I determined that the 100 items listed in The RealReal's Second Supplemental
14 Response to Interrogatory No. 2 were counterfeit using the same basic principles and methods that I
15 use on a daily basis in my role as a professional authentication expert at The RealReal. Specifically,
16 I examined the materials, construction, hardware, and brand specific identifiers on each of the items
17 and compared them to similar goods that I know to be authentic, to my knowledge about and
18 recollection of goods that I know to be authentic, to information provided by the rights holders or
19 other authentication authorities such as the International AntiCounterfeiting Coalition, or to some
20 combination of the above.

21 13. My determination that the Celine Tie Totes listed in The RealReal's Second
22 Supplemental Response to Interrogatory No. 2 are counterfeit was also confirmed by Louis Vuitton
23 in the form of a declaration signed by John Maltbie on February 10, 2016.

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25 Dated: December 8, 2016

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Graham Wetzberger